



V I E W
OF THE
T I T L E
TO
I N D I A N A,
A TRACT OF COUNTRY
ON THE
R I V E R O H I O,

CONTAINING

Indian Conferences at Johnson-Hall in May,
1765; the deed of the Six Nations to the
Proprietors of Indiana; the Minutes of the
Congress at Fort Stanwix, in October and
November, 1768; the deed of the Indians,
settling the boundary line between the Eng-
lish and Indians lands; and the opinion of
Counsel on the title of the Proprietors of
Indiana.

V I E W O F T H E Title to Indiana.

AT a conference held with the Six Nations at Johnson-hall,
May the 2d, 1765,

P R E S E N T,

Sir William Johnson, Baronet, the King's Superintendent of Indian Affairs, John Johnson, Esq; Mr. Arthur. Mr. Kirtland, Mr. Kreiser, Daniel Claue and Guy Johnson, Esquires, Deputy Agents, Butler, Parthius, Monteur, interpreters to the Crown.

Sir William addressed the Six Nations as follows :

Brethren,

AM now to speak to you on some affairs which greatly concern us both, and I expect you will give me your attention, and act a becoming part upon the occasion.

You know the treacherous and cruel part acted by some of your people at Logstown and about the Ohio two years ago ; you then plundered numbers of the traders, who were supplying you with goods ; some of them you have promised to protect and save their effects, but you did not keep your words ; several of these unhappy sufferers are thereby reduced to great necessity, some of whom are thrown into jail, because they could not pay their debts. This has induced them to apply to me, and to desire I would lay before you their distresses, that you might give them a tract of land to compensate in some measure for their great losses. I need not tell you how incumbent it is upon you to agree to their desire, as you must all be sensible they were ruined by some of your people in a time of peace, and when they were supplying your necessities : This conduct is sufficient to make the traders very shy of going towards your country ; and therefore I think it indispensably your interest to grant their request, which, though it will be but a small recompence, will, however, shew the world that you repent of what is past, and like honest men, are desirous of making some restitution for the damages you have committed. I expect you will, without delay, give me an answer, and I wish it may be a favourable one, it as will be for your own credit.

Brethren,

The next thing I am to take notice of, is at the desire of the General who commands all the army in this country. He has represented to me the necessity there is for the troops to have gardens and corn about the forts ; and although it is the custom in all other

other places, that all the ground within cannon-shot shall belong to the fort, he has yet such a regard for you, that he would not make any use of it without you were first made acquainted, and approved of it. This is an instance of so much goodness and condescension, that I expect you will not hesitate a moment to give up the ground within cannon shot round all the forts, for the use of the King's army; and I know you will be ready to do that, as such ground so near a fort can be of no use to you, as it is only intended for the service of the garrison; but as the garrison of Fort Pitt is larger than the rest, and a great way from our settlements, I have no doubt but you will give up a larger quantity of ground there for the use of the soldiers. And if you agree to this, I am persuaded, they will look upon you in a much more friendly light than formerly; so that I expect a speedy and agreeable answer.

Brethren,

The last, but most important affair I have at this time to mention, is with regard to the settling a boundary line between you and the English. I sent a message to some of your nations some time ago, to acquaint you that I should confer with you at this meeting upon it. The King, whose generosity and forgiveness you have already experienced, being very desirous to put a final end to disputes between his people and you, concerning lands, and to do you strict justice, has fallen upon the plan of a boundary between our provinces and the Indians (which no white man shall dare to invade) as the best and surest method of ending such like disputes, and securing your property to you beyond a possibility of disturbance. This will, I hope, appear to you so reasonable, and so just, on the part of the King, and so advantageous to you and your posterity, that I can have no doubt of your cheerfully joining with me in settling such a division line as will be best for the advantage of both the white men and the Indians, and as shall best agree with the extent and increase of each province, and the Governors, whom I shall consult upon that occasion, so soon as I am fully empowered; but, in the mean time, I am desirous to know in what manner you would choose to extend it, and what you will agree heartily to, and abide by, in general terms. At the same time I am to acquaint you, that whenever the whole is settled, and that it shall appear you have so far consulted the increasing state of our people, as to make any convenient cessions of ground, where it is most wanted, that then you will receive a considerable present in return for your friendship.

On the 3d of May, the Six Nations, by the Onondaga Speaker made the following answer.

Brother Warraghiyagay. (Sir William Johnson's Indian name.)

We have heard all you said to us yesterday, and we give you many thanks for your advice and directions to us, which we shall take due notice of.

As we are willing to shew our good disposition by our actions, we shall come into every thing you propose, that is reasonable, and we hope it will render us more regarded by the English. There

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are serious articles, and we shall consult both sachems and warriors about them, and by to-morrow be able to answer you upon them; but with regard to what you spoke to us about the King's desire, that we should agree about a line between us and the English, we must desire to know of you how you intended the line should go, and how far.

Sir William answered,

Brethren,

I THANK you for taking what I said into serious consideration. With regard to what you desire to know concerning the line, if one sachem from each nation attends early to-morrow morning, I shall speak farther upon that subject.

On the 4th of May, the Onondaga Speaker addressed Sir William as follows:

Brother,

We yesterday opened our ears to what you said to us, and we have deliberated on it ever since. We now beg you will open your ears, and hearken to what we have to say in answer to it.

Gave three fringes.

Brother,

We have heard what you told us, concerning the intentions of the great King, about a line between us and the English, and we have considered that such a thing will be very necessary, provided the white people will abide by it.

Brother,

The chief cause of all the late wars was about lands. We saw the English coming towards us from all parts, and they have cheated us so often, that we could not think well of it. We were afraid that in a little time you would be at our very castles; for this reason we thank the great King for his good intentions, and we hope he will make his people keep within bounds, which they have not yet done. We therefore agree, that a boundary shall be made between us, and that it shall run from Fort Edward along to the Mohawk's castle, and from thence along the great mountain to Harris's ferry, on the river Susquehanna, agreeable to what we have drawn here, on a piece of bark. A Belt.

Brother,

WE have told you our minds; if it does not please you, it is none of our faults. We were always ready to give, but the English do not deal fairly with us; they are more cunning than we are; they get our names upon paper very fast, and we often do not know what it is for. We would do more to please the King, but it is hardly in our power, and some of us do not like it because we are so often imposed upon; one of our nations is going to be cheated out of almost all the land between the Mohawk and the Big river, by people at Albany, to whom they never publicly made any such grant, nor never received any thing for it. We spoke to you once before about it, and here are their chiefs now, who say, that since they first heard of it, they were promised justice by the several Governours at Albany long ago. They have likewise spoke to you on twelve different belts, and begged that

that you would get justice for them, but it is not done; they sent a belt over to the King about it, but they have not yet had any satisfaction.

Brother,

YOU see how it is with us; if the English would be more honest, we should be more generous, and there would be peace all through the land; but it is hard, that one of our nations, that live so near you *, and have suffered so much on your account, should be so greatly wronged. This makes us apprehensive, that the English will soon stretch their arm over our lands: We beg then, that you will send our belts to the King, and tell him how it is with us, and that we hope he will set us a good example, and give the Mohawks their land soon, before we settle any other matters; for our necks have been long stretched out to hear from him, and if we do not hear soon, some of our young people's heads will begin to turn, and they will not regard what we say about peace; they will tell us it is not true, for if it was, our confederacy would obtain justice when they apply for it.

A Belt.

Brother,

WE have finished what we had to say for the present, and we hope you will answer us to-morrow upon it, at which time we shall speak to you on the other matters. On May the 5th Sir William addressed the Indians in the following manner.

Brethren,

YOUR speech yesterday much surprised me; you appeared desirous to set a boundary between the English and you, and sensible of the advantage of it; at the same time, you have described a boundary which is ridiculous, and which shews me, you do not mean what you say, and are not desirous to pursue what has been recommended to you: neither does it proceed from your ignorance; for you convinced me yesterday by the remarks you made on the great map, that you are well acquainted with the whole country, and the situation of all the places on the frontiers. Notwithstanding which you have, in your boundary, cut off a large tract of country, which you all knew has been long since purchased and settled. The land is patented 100 miles beyond Fort Edward, and a great distance beyond the Mohawks Castle, and the line you make from thence to Harris's ferry, instead of adding to, cuts off several towns and settlements, particularly in Pennsylvania, which you know has been fairly purchased and allowed of by you, and to which you can make no claim, and you have taken no notice of the other governments. The affair of the Mohawks is of old standing, and I have never neglected it: I can prove by papers I have here, that I laid it before Governor Clinton fifteen years ago, and that at the grand Congress at Albany, in 1754, I did what I could for the Mohawks, who were promised to have the matter strictly examined into: There is a patent for it, and it is not an easy matter to break it. The Mohawks have given me infinite trouble about it, ever since the report that it was to be surveyed; it has not as yet affected their hunting,

* The Mohawks.

hunting, as it has never been surveyed or settled: and I have stated their complaints and doubt not but they will be redressed. That is the only large tract which at present concerns them, and therefore I am sorry to find, you should make it any objection to the good work which the King recommends. These things require much time with white people; I have often recommended patience to them, and I wish they would follow my advice, and not interrupt a business which is of so great importance. I wanted only at present to know your general sentiments upon this subject, and I wish they had been more favourable, because it would have been as much for your interest, as that of the English.

To which the Six Nations then answered,

Brother,

We have heard you with attention, and we are much obliged to you for shewing us what is best for our interest. We shall therefore take it farther into consideration, because we are willing to shew our good disposition. We hope our behaviour on this occasion will have a proper effect upon the great King, and induce him to hearken to our complaints. We do not doubt but you have done what you could for us, and we wish it may be taken notice of; otherwise we must think ourselves greatly wronged, and our minds cannot be at peace. To-morrow we shall answer you more particularly and to your satisfaction. Then Thomas King (a chief of the Six Nations) addressed the several nations as follows:

Brethren,

I would wish you all to enter with cheerfulness into the business you brother Warraghiyagey has recommended to you, and do it from your hearts. Let us follow the example of our ancestors, whose bones are now turned into dust: they were wise men, and took care of every thing that concerned peace: let us do the same, and let us make a line for the benefit of our children; that they may have lands which cannot be taken from them; and let us, in doing that, shew the King that we are generous, and that we will grant him land enough for his people. Then he will regard us, and take better care that his people do not cheat us.

On the 6th of May, after the several nations were assembled, the Onondaga speaker addressed Sir William, as follows:

Brother,

We are now assembled to answer what you said to us yesterday, regarding the boundary line, concerning which we have not given you satisfaction. We hope we shall not please you better, and we beg you will attend to our answer, and pardon our mistakes and the manner of our expression, as we have always been accustomed to speak our thoughts freely, the rather as we heard from the French, that you had designs upon us, and we heard from you, that they had the same, but of late we find you both had the like motives.

At length we have agreed together for ourselves, our wives and children, to make a cession to the King, of the lands we shall now

now describe, beginning at Owego, on the east branch of Susquehanna, thence down the east side of the river to Shamokin (or Fort Augusta) and running up the west branch of Susquehanna, on the south side thereof, and from thence to Kittanning, or Odigo on the Ohio, thence along and down the Ohio to the Cherokee river, and up the same to its head, on this side; upon condition that you have some regard for our warriors, who always pass through that country, and give them always a free passage; and we are very happy in being all assembled here, both sachems and warriors, at this time, and not as has been formerly the case on such occasions.

We can now all act together, as all should receive a share for what they have ceded, by which it will be preserved in our minds. We have never refused you lands. In many places we have given proofs of our friendship, on which we have been promised a recompence which we have not received. We assisted your army last year, and many of our people were forsaken and left to starve, and we have been promised a large trade, and to fix interpreters, etc. at each post, which it is not come as yet. We beg you will consider these things, and have regard to your promises and our requests, as we pay due regard to your desires at present; that therefore you will take these things into your consideration, and afford us a plentiful trade, and proper interpreters at the posts, as you have promised. It is in expectation of this, that we have now agreed to your proposals, and for the sake of establishing tranquility, we therefore recommend it earnestly to you, to consider what we have said. We have farther to add, that you will consider our hungry people will sometimes kill your cattle and tread down your corn; if they do so now, it may be worse when we assemble all nations: We therefore beg, that, whenever you finally settle this affair, and that all your Governours meet about it, you would appoint the Congress in some place more remote, and that you would bring provisions thither with you. The request of the traders shall be complied with, and we shall agree to give them some lands near Fort Pitt, and also to your desire concerning some lands about the forts, for the use of your garrisons.

Then Thomas King said to the several nations:

Brethren,

I hope you will now remember what we have agreed to, and what your brother has said; for we have now all, men, women, and children, been witnesses of this transaction, which is done publicly, nor can it be said our chiefs received any bribes; therefore should we forget what is now done, it will be a great reflection upon us, as none of us, with truth, can deny it.

May the 6th, Sir William assembled all the chiefs, and spoke to them concerning the boundary line, observing that they had not closed it properly to the eastward, which was highly necessary.

The Onondaga speaker answered,

Brother,

WE have attended to you, and we have already considered about closing the line; but we find it a difficult matter to determine,

termine, as so many tribes and branches of our confederacy have their residence about the Susquehanna. We think to continue the line up that river to Cherry Valley Lake, and from thence to the German Flats, would be very advantageous to you; because our brethren the Oniedas say, you have no right or title on the south side the Mohawk river above that place; however, for the present, we shall not extend the boundary line higher than Owego, but when the affair comes to be finally determined, we shall think farther about it.

Then Canaghchiefa said,

Brother,

You know that we are the owners of the land westward of the German Flats, we hope we are not to be cheated out of it, but we have reason to think oddly of it; as a German is gone to live at our large field Orisca, which is our property, we beg you will drive him off; for he has no right to it, for we well know the lands we sold, from the rest, and we tell you this, because we would not do any thing in it, till we spoke to you about it. We think we are strangely dealt with, our fathers were asked to sell farms, and whenever they agreed to it, the white people took woods, and all which we knew nothing of, till we saw people coming into our country. Brother, since that is the case, let us know, what the white people claim, and we will tell honestly what we sold.

Sir William answered,

Brethren,

As I only wanted to know your sentiments in General, about a boundary, I am content the line remains for the present, as far as you recommend as to what you mentioned, running to the German Flats, it cannot be agreed to, there are good titles within that line. What the Oneidas say about the man at Orisca, I did not hear of till now, if he is unjustly settled, he will remove on proper warning. Whenever I can hear of your being wronged, I shall use my interest to get justice for you; but you would have much less cause to complain, if your people would never meddle in land affairs, without the knowledge of the whole nation.

TO all people to whom these presents shall come, greeting: Know ye, that we Abraham a Mohawk chief, Sennghois a Oneida chief, Saquarifera a Tuscarora chief, Chenaugheata chief of the Onandaga council, Tagaata a Cayuga chief, and Gustarax a Seneca chief, chiefs and sachems of the Six United Nations, and being and effectually representing all the tribes of the said Six United Nations, send greeting:

WHEREAS Robert Callender, David Franks, Joseph Simmons, Levy Andrew Levy, Phillip Boyle, John Baynton, Samuel Wharton, George Morgan, Joseph Speare, Thomas Smallman, Samuel Wharton administrator of John Welch deceased, Edmund Moran, Eben Shelby, Samuel Postlethwait, John Gibson, Richard Winston, Dennis Crohon, William Thomson, Abraham

Abraham Mitchel, James Dundas, Thomas Dundas, and John Ormby, in and by their several and respective letters or powers of attorney, duly signed, sealed, and delivered by them, and now produced interpreted, and explained to us; have constituted, nominated and appointed, William Trent, of the county of Cumberland, and province of Pennsylvania, merchant, their lawful attorney and agent, to ask, solicit, demand, and receive from the sachems, councillors, and warriors of the said Six United Nations, a grant of a tract of land, as a compensation, satisfaction, or retribution for the goods, merchandise, and effects of the said William Trent, and the traders aforesaid, which the Shawnee, Delaware, and Huron tribes, tributaries of the said Six Nations (contrary to all good faith, and in violation of their repeated promises of safety and protection to their persons, servants, and effects, whilst trading in their country) did in the spring of the year 1763, violently seize upon, and unjustly appropriate to their own use:

AND WHEREAS we are now convened in full council, by order of our father, the King of Great-Britain, France and Ireland, defender of the faith, etc. at Fort Stanwix, in the province of New-York, in order to agree for, ascertain, and finally fix and settle a permanent and lasting boundary line between the hunting country, which we, at the conference aforesaid, shall and will reserve for ourselves, our children and our tributaries, and the territories of the said King of Great Britain:

AND WHEREAS application was formerly made to the said Six United Nations by Sir William Johnson, Baronet, at the requisition of the aforesaid traders, who had sustained and suffered the losses aforesaid, for a retribution for the same, which the said Six United Nations promised and agreed to, whensoever he, the said Sir William Johnson, Baronet, should be empowered by his said Majesty, the King of Great-Britain, to establish the boundary line aforesaid:

AND WHEREAS the said Sir William Johnson, Baronet, has now at this present Congress, reminded the said Six United Nations of their said promise, and at the earnest desire of the aforesaid traders, by their said attorney, strongly recommended to the said Six United Nations, to make them a restitution, by a grant of a tract of land to his said Majesty, the King of Great-Britain, his heirs and successors; to and for the only use, benefit, and behoof of the said William Trent, in his own right, and as attorney as aforesaid: all which the said Six United Nations having taken into their consideration, and being heartily disposed to agree thereunto, as an instance of their justice and concern for the said losses do therefore by these presents signify, publish, and declare, that notwithstanding the grant and gift hereby made and given by them unto his said Majesty the King of Great-Britain, and so forth (to and for the only use, benefit, and behoof of the said William Trent, in his own right, and as attorney as aforesaid) will be included within the cession, sale, and boundary line which the said Six United Nations shall and will make, sell and grant to the said King of Great-Britain, at

the conference aforesaid, now holden at Fort Stanwix, aforesaid, by the said Sir William Johnson, Baronet :

YET NEVERTHELESS, the said Six United Nations have neither asked, demanded, nor received from him the said Sir William Johnson, Baronet, nor from any other person or persons in behalf of the said King of Great-Britain, any consideration for the hereby given and granted premises, neither shall nor will the said Six United Nations, nor their heirs nor descendants (and by these presents, they, the said Six United Nations, wholly and entirely interdict and prohibit them from so doing) demand, nor receive from the said King of Great-Britain, nor from his successors, nor from his or their ministers or servants, any consideration whatsoever, or howsoever, for the hereby granted bargain, or now given premises, or any part, purport, or parcel thereof, the same being their own voluntary act and deed, solely, and bona fide designed and intended by them as a compensation, satisfaction and retribution for the losses sustained by the said William Trent, and the Indian traders aforesaid, by the depredations of the Shawnee, Delaware, and Huron tribes of Indians aforesaid, in the aforesaid year, 1763.

NOW this indenture witnesseth, that we the said Abraham, Sennegeis, Saquarileta, Chenaugheata, Taganaia, and Gausfarax (chiefs and sachems of the said Six United Nations, and being and effectually as aforesaid, representing all the tribes of the Six United Nations) for and in consideration of the sum of \$5,961. 10s. 8d. lawful money of the province of New-York (the same being the amount of the goods and merchandize, which were unjustly seized and taken, as aforesaid by the Shawnee, Delaware, and Huron tribes of Indians aforesaid, from the said William Trent, Robert Callender, David Franks, Joseph Simons, Levy Andrew Levy, Philip Boyle, John Baynton, Samuel Wharton, George Morgan, Joseph Spear, Thomas Smallman, Samuel Wharton administrator of John Welch, deceased, Edmund Moran, Evan Shelby, Samuel Poletswait, John Gibson, Richard Winston, Dennes Croton, William Thomson, Abraham Mitchell, James Dundas, Thomas Dundas, and John Ormsby, in the aforesaid year 1763, whereof just and fair accounts have, on oath and affirmation, been produced, interpreted, and explained to us; and which, at our desire, are now lodged and deposited with the said Sir William Johnson, Baronet: And for and in consideration of the sum of 5s. lawful money, aforesaid, to us in hand paid by the said William Trent, the receipt whereof we do hereby acknowledge, to give, grant, bargain, and sell unto his said Majesty, his heirs and successors, to and for the only use, benefit, and behoof of the said William Trent, in his own right and as attorney aforesaid, all that tract or parcel of land, beginning at the southerly side of the mouth of Little Kanawha creek, where it empties itself into the river Ohio, and running from thence south-east to the Laurel Hill, thence along the Laurel Hill until it strikes the river Monongehela, thence down the stream of the said river Monongehela, according to the several courses thereof, to the southern boundary line of the province of

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of Pennsylvania; thence westerly along the course of the said province boundary line, as far as the same shall extend, and from thence by the same course to the river Ohio, thence down the said river Ohio, according to the several courses thereof, to the place of beginning; together with all and singular the trees, woods, underwoods, mines, minerals, ores, waters, water-courses, fishings, fowlings, huntings, profits, commodities, advantages, rights, liberties, privileges, hereditaments and appurtenances whatsoever, to the said tract or parcel of land belonging, or in any ways appertaining; or which now are or formerly have been accepted, reputed, taken, known, used, occupied or enjoyed, to or with the same, or as part, parcel, or member thereof, and the reversion and reversions, remainder and remainders, rents, issues, and profits, of all and singular the said premises above mentioned, and every part or parcel thereof with the appurtenances: And also all the estate, right, title, interest, property, claim, and demand whatsoever; whether native, legal, or equitable, of us the said Indians, and each and every of us, and of all and every other person and persons whatsoever; of or belonging to the said nations, of, in, to, and out of all and singular the premises above mentioned; and of, in, to, and out of every part and parcel thereof, with the appurtenances: to have and to hold, all and singular the said tract, parcel and parcels of land, given, granted, and bargained premises with their appurtenances, unto his said Majesty King George the third, his heirs and successors, but to and for the only use, benefit, and behoof of the said William Trent, in his own right, and as attorney aforesaid, his heirs and assigns for ever: And the said Abraham, Sennehois, Saquarifera, Chenaugheata, Tagaia, and Gausfarax, for themselves, and for the Six United Nations, and all and every other nation and nations, tribes, tributaries, and dependants on the said Six United Nations, and their and every of their posterities, the said tract and parcel of land and premises, and every part thereof, against them, the said Abraham, Sennehois, Saquarifera, Chenaugheata, Tagaia, and Gausfarax; and against the Six United Nations, and their tributaries and dependants, and all and every their posterities, to his said Majesty, his heirs and successors, but to and for the only use, benefit, and behoof of the said William Trent, in his own right, and as attorney aforesaid, his heirs and assigns, shall and will warrant, and for ever defend by these presents: In witness whereof, we the said chiefs and sachems, in behalf of ourselves respectively, and in behalf of the whole Six United Nations aforesaid, have hereunto set our hands and seals, in the presence of the persons subscribing as witnesses hereunto, at a Congress held at Fort Stanwix aforesaid, this third day of November, in the ninth year of his Majesty's reign, and in the year of our Lord one thousand seven hundred and sixty eight.

Abraham, or } chief of
Tyahanefera, }

The mark of his nation,
(L. S.) the Mohawks
The steel.
W U'Y

William, or } chief of	The mark of his nation.
Senngchois. }	(L. S.) the Oneidas.
	The stone.
Hendrick, or } chief of	The mark of his nation.
Saquarifera, }	(L. S.) the Tuscaroras.
	The cross.
Bunt, or Che- } chief of	The mark of his nation.
naugheata, }	(L. S.) the Onondagas.
	The mountain.
Tagaia, chief of	The mark of his nation.
	(L. S.) the Cayugas.
	The pipe.
Gauflarax, chief of	The mark of his nation.
	(L. S.) the Senecas.
	The high hill.

Sealed and delivered in the presence of us,
 William Franklin, Governor of New-Jersey.
 Frederick Smith, Chief Justice of New Jersey.
 Thomas Walker, Commissioner for Virginia.
 Richard Peters, } of the Council of Pennsylvania.
 James Tilghman, }
 John Skinner, Captain in the 70th regiment.
 Joseph Chew, of Connecticut.
 John Weatherhead, of New-York.
 John Walker, of Virginia.
 E. Fitch, of Connecticut.
 Thomas Walker, Jun. of Virginia.
 John Butler, Interpreter for the Crown.

On the 7th d. y of January, in the year of our Lord 1769, before me Isaac Jones, esq. Mayor of the city of Philadelphia, came the Rev. Richard Peters, rector of the two United Churches of Christ Church and St. Peters, in Philadelphia, one of the subscribing witnesses to the within written deed, and made oath on the Holy Evangelists of Almighty God, that he was present, and did see the within named Abraham, or Tyahanefera, a chief of the Mohawks; William, or Senngchois, a chief of the Oneidas; Hendrick, or Saquarifera, a chief of the Tuscaroras; Bunt, or Chenaugheata, a chief of the Onondagas; Tagaia, a chief of the Cayugas; and Gauflarax, a chief of the Senecas, make the several marks in the within written deed, against their respective names, placed as the particular mark of each nation; and did also see the said Abraham, or Tyahanefera; William, or Senngchois; Hendrick, or Saquarifera; Bunt, or Chenaugheata; Tagaia, and Gauflarax, respectively seal, and as their act and deed, deliver in behalf of themselves, and the several nations which they effectually represented, the within written deed poll; and that the name Richard Peters, subscribed thereto as a witness of the same, is of his own hand writing; and also, that the said Richard Peters saw W. Franklin, Governour of New-Jersey; Frederick Smith, chief justice of New-Jersey; Thomas Walker, com.

Commissioner for Virginia; James Tilghman, of the Council of Pennsylvania; John Skinner, Capt. in the 70th regiment; Joseph Chew, of Connecticut; John Walker, of Virginia; E. Fitch, of Connecticut; Thomas Walker, jun. of Virginia; John Butler, Interpreter for the Crown, subscribe their names as witnesses likewise to the signing, sealing, and delivery of the within written deed poll. Witness my hand and seal, the day and year aforesaid.

I. JONES, (L. S.)

Minutes of the Congress at Fort Stanwix, in 1763.

AT a General Congress held with the Six Nations, Shawnee, Delaware, Senecas of Ohio, and their dependants, at Fort Stanwix, October 26, 1763.

P R E S E N T,

The Honourable Sir William Johnson, Baronet, Superintendent of Indian affairs; His Excellency William Franklin, Esq; Governor of the province of New-Jersey; Thomas Walker, Esq; Commissioner from the colony of Virginia; Honourable Frederick Smyth, Chief Justice of New-Jersey; Richard Peters and James Tilghman, Esquires, Commissioners from the province of Pennsylvania; George Croghan and Daniel Claufe, Esquires, Deputy Agents of Indian affairs; Guy Johnson, Esq; Deputy Agent and Secretary of Indian Affairs; with sundry other Gentlemen from the different colonies: John Butler, Esq; Mr. Andrew Montour, and Mr. Philip Phillips, Interpreters for the Crown.

INDIAN CHIEFS PRESENT. Mohawks,--Abraham, Kanadagaya, Kendrick, Aroghiadecka, Kayenquerego, Tobarihoga, Onohario, etc. etc. etc. Onondagas, The Eunt, Tewaruit, Diaguanda, Tawallughti, etc. etc. etc. Senecas,--Gaularax, Onongot, etc. etc. etc. Oneidas,--Canaghquieson, Nicholafera, Senughis, Gajubeta, Tagawaron, etc. etc. etc. Cajugas,--Tagaia, Skaurady, Atrawawna, etc. etc. etc. Tuscaroras,--Siquarifera, Kanigot, Tyagawehe, etc. etc. etc. Mingos of Ohio, Shawnee,--Beneviffica. Delawares, Killbuck, Turtleheart, etc. etc. etc.

Brethren,

HEARKEN to me, who have good words to speak to you, such as are for the benefit of your whole confederacy, and of your children yet unborn.

You all remember, that three years ago I signified to you his Majesty's desire to establish a boundary line between his people and yours; and that we then agreed together, how some part of that line should run, whenever the same came to be settled.

You all, I am hopeful, recollect the reasons I then gave you for making such a boundary; nevertheless, I shall again repeat them. You know, brethren, that the encroachments upon your lands have been always one of your principal subjects of complaint; and that, so far as it could be done, endeavours have not been wanting for your obtaining redress. But it was a difficult task, and generally unsuccessful: for although the provinces have bounds between each other, there are no certain bounds between

between them and you, and thereby, not only several of our people, ignorant in Indian affairs, have advanced too far into your country, but also many of your own people, through the want of such a line, have been deceived in the sales they have made, or in the limits they have set to our respective claims. This brethren, is a sad case, which has frequently given us much trouble, and turned many of your heads; but it is likely to continue so, until some boards are agreed to, fixed upon, and made public between us. The great, the good King of England, my master, whose friendship and tender regard for your interests I with you may ever hold in remembrance, has, amongst other instances of his goodness, after long deliberation on some means for your relief, and for preventing future disputes concerning lands, at length resolved upon fixing a general boundary line between his subjects and you, and that in such a manner as shall be most agreeable to you; in consequence of which, I have received his royal commands to call you together for the establishment thereof; and after conferring with the governments interested hereupon you now see before you the Governour of the Jerseys, the commissioners on behalf of Aferegon, Governour of Virginia, and commissioners from Pennsylvania, in order to give you the strongest assurances on behalf of their respective governments, of their resolutions to pay due regard to what shall be now entered into; the presence of so many great men will give a sanction to the transaction, and cause the same to be known as far as the English name extends. His Majesty has directed me to give you a handsome proof of his generosity, proportioned to the nature and extent of what lands shall fall to him. Upon the whole, I hope that your deliberations will be unanimous, and your resolutions such as his Majesty may consider as proofs of your gratitude for all his favours. A fine new Belt.

The importance of this affair now before us, requires the most serious attention; I will not burthen you with any other subject until this is generally settled, and therefore we shall adjourn that you may have time to think of it, and come fully prepared to give an agreeable answer.

Then Abraham, Chief of the Mohawks, after repeating what Sir William had said, addressed him,

Brother,

WE give you thanks for what you have said to us at this time; it is a weighty affair, and we shall, agreeable to your desire, take it into our most serious consideration. We are glad that so many great men are assembled to bear witness of the transaction; and we are now resolved to retire and consult on a proper answer to be given to all you have said; and so soon as we have agreed upon it, we shall give you notice, that we may again assemble and make it known to you, and we are all much obliged to you, that you have directed us to attend to this great affair alone at this time, that our minds might not be burthened or diverted from it by attending to any thing else.

AT a General Congress held at Fort Stanwix with the Six Nations and other Indians, on Tuesday November the 11th, 1768.
PRESENT as at the former Meeting.

The Indians being all seated, they desired to know, whether Sir William was prepared to hear them; and on being answered in the affirmative, the Speaker stood up, and spoke as follows:

Brother,

WE are hopeful that you will not take it amiss that we have delayed till now our publick answer on the subject you recommended to us; this was a great and weighty matter, requiring long deliberation, and should not be undertaken lightly; we have accordingly considered it, and are now come to give you our final resolutions thereon, to which we beg your attention.

Brother,

WE remember, that on our first meeting with you, when you came with your ship, we kindly received you, entertained you, and entered into an alliance with you, though we were then great and numerous, and your people inconsiderable and weak; and we know that we entered into a covenant-chain of bark with you and fastened your ship therewith; but being apprehensive the bark would break, and your ship be lost, we made one of iron, and held it fast, that it should not slip from us; but perceiving the former chain was liable to rust, we made a silver chain to guard against it. Then, Brother, you arose, renewed that chain, which began to look dull, and have for many years taken care of our affairs by the command of the great King, and you, by your labours, have polished that chain; so that it has looked bright, and is become known to all nations; for all which we shall ever regard you, and we are thankful to you in that you have taken such care of these great affairs, of which we are always mindful, and we do now, on our parts, renew and strengthen the covenant chain, by which we will abide, so long as you shall preserve it strong and bright on your part.

A Belt.

Brother,

WE are glad that you have opened the rivers and cleared the roads, as it is so necessary to us both. We were promised, that, when the war was over, we should have trade in plenty, goods cheap, and honest men to deal with us; and that we should have proper persons to manage all this. We hope, that these promises will never be forgot, but that they will be fully performed, that we shall feel the benefits of an intercourse between us: that the roads and waters may be free and open to us all, to go to the southward, or for our friends from thence, with whom we are now at peace, to visit us; that we may have proper persons in our countries to manage affairs, and smiths to mend our arms and implements; and in the expectation of this, we do now, on our parts, open the roads and waters, and promise to assist in keeping them so.

A Belt.

Then, after repeating all that had been said concerning the line, the Speaker proceeded,

Brother,

We have long considered this proposal for a boundary between us,

us, and we think it will be of good consequence, if you, on your parts, pay a due regard to it: and we, in consequence thereof, have had sundry meetings amongst ourselves and with you: and from all that you have said to us thereon, we have at length come to a final resolution concerning it, and we hope that what is now agreed upon shall be inviolably observed on your parts, as we are determined it shall be on ours; and that no farther attempts will be made on our lands, but that this line be considered as final; and we do now agree to the line we have marked upon your map, now before you, on certain conditions on which we have spoken, and shall say more, and we desired that one article of this our agreement be, that none of the provinces, or their people, shall attempt to invade it, under colour of any old deeds, or other pretences whatsoever; for in many of these things we have been imposed on, and therefore we disclaim them all. Which bounds, now agreed to, we begin on the Ohio, at the mouth of the Cherokee river, which is now our just right: and from thence we go up, on the south side of the Ohio, to Kattaning, above Fort Pitt, from thence a direct line to the nearest fork of the West Branch of Susquehanna, thence through the Allegany mountains, along the south side of the said West Branch, till we come opposite to the mouth of the creek called Tiadagaton: thence across the West Branch, and along the east side of that creek, and along the ridge of Burnet's hills, to a creek called Awandze, thence down the same to the East Branch of Susquehanna, and across the same, and up the east side of that river to Owcegy from thence eastward to Delaware river, and up that river to opposite where Tianaderrah falls into Susquehanna; thence to Tianaderrah, and up the west side thereof, and its west branch, to the head thereof: thence by a straight line to the mouth of Canada creek, where it empties itself into Wood creek, at the end of the long carrying place beyond Fort Stanwix. And it is we declare to be our final resolves, and we expect that the conditions of this our grant will be observed.

A Belt.

Brother,

NOW as we have made so large a cession to the King of such a valuable and extensive country, we do expect it as the terms of our agreement, that strict regard be paid to all our reasonable desires. We do now, on this case, on behalf and in the name of all our warriors of every nation,---Condition, that our warriors shall have the liberty of hunting throughout the country, as they have no other means of subsistence; and as your people have not the same occasions or inclinations, that the white people be restricted from hunting on our side of the line, to prevent contention between us.

A Belt.

Brother,

B Y this belt we address ourselves to the great King of England, through you our superintendent, in the name and in behalf of all the Six Nations, Shawnee, Delawares, and all other our friends, allies, and dependants; we now tell the King that we have given to him a great and valuable country, and we know that what we shall now get for it must be far short of its

its value: We make it a condition of this our agreement concerning the line, that his majesty will not forget or neglect to shew us his favour, or suffer the chain to contract rust: but that he will direct those who have the management of our affairs to be punctual in renewing our ancient agreements: That as the Mohawks are now within the line which we give to the King, and that these people are the true old heads of the whole confederacy, their few red villages, and all the land they occupy unperturbed about them, as also the red houses of any other of our confederacy affected by this session, shall be considered as their sole property, and at their disposal, both now and so long as the sun shines: and that all grants or engagements they have now or lately entered into, shall be considered as independent of this boundary: so that they who have so little left, may not lose the benefit of the sale of it, but that the people with whom they have agreed, may have the land. We likewise farther condition, on behalf of all the Six Nations, and of all our allies, friends, and nephews, our dependants, that as we have experienced how difficult it is to get justice, or to make our complaints known, and that it is not in the power of our superintendent to take care of our affairs in different places without the King's help: that his Majesty will give him help and strength to do us justice, and to manage our affairs in a proper manner. We all know the want of this, and we make it a point of great consequence, on which this our present agreement is to depend, and without which affairs will go wrong, and our heads may be turned.

Brother,

We likewise desire that as we have now given up a great deal of lands within the bounds that Mr. Penn claimed a right of buying; that he may, in consequence of the agreement now entered into between us, enjoy what we have given within them limits. And as we know that Lidius of Albany did, in the name of several persons, lay claim to lands in Pennsylvania, which we know to be unjust, and that the deeds he pretends a right to were invalid, we expect that no regard will be paid to them, or any such claims, now or hereafter, as we have fairly sold them to the proprietors of Pennsylvania, to whom alone we shall sell lands within that province; and we shall now give them a deed for that and other lands there. And in order to shew that we love justice, we expect the traders who suffered by some of our dependants in the wars five years ago, may have a grant for the lands we now give them down Ohio, as a satisfaction for their losses; and as our friend Mr. Croghan long ago got a deed for lands from us, which may now be taken into Mr. Penn's hands; should

C

* This related to lands on the Susquehanna. etc.

§ Mr. Penn claimed this pre-emption in virtue of King Charles's charter to him, of the 4th of March, 1681, and of an act of assembly of Pennsylvania, passed in 1700, prohibiting all persons, except himself and his heirs, from buying any lands from the natives within the limits thereof.

† The proprietors of Pennsylvania bought of the Six Nations, a large tract of country at this Congress, and on receiving their deed of conveyance for the same the said proprietors paid the Six Nations 10,000 Spanish milled dollars, being the consideration money for the said tract.

should it so happen, we request that it may be considered, and that he may get as much from the King somewhere else, as he fairly bought it. And as we have given enough to shew our love for the king, and make his people easy, in the next place, we expect, that no old claims, which we disavow, or new encroachments may be allowed of.

Brother,

We have now gone through this matter, and we have shewn ourselves ready to give the King whatever we could reasonably spare; we on our parts, express our regard for him, and we hope for his favour in return. Our words are strong and our resolutions firm, and we expect that our requests will be complied with, inasmuch as we have so generously complied with all that has been desired, as far as was consistent with our interest. A Belt.

AT a general Congress held at Fort Stanwix with the Six Nations, and other Indians, on Friday, November 4, 1768.

P R E S E N T, as at the former Meeting.

SIR WILLIAM, at the desire of the Gentlemen commissioners from Pennsylvania, acquainted the Indians, that they, the commissioners, had a present ready to the amount of five hundred dollars, to give in full satisfaction of the Conostoga lands, which, by the death of that people, became vested in the proprietors. That they freely gave this sum, as a farther proof of the regard of that province for them and of their concern for the unhappy fate of the Conostogas. Then Sir William told the Indians, that as the proprietaries did not know, whether they would choose money or goods for the addition of land to Pennsylvania, they were then unprovided; but that Sir William Johnson would be answerable for the speedy payment of the purchase, and would propose to them, either to receive it in money, to be sent on the commissioners return, or in goods as speedy as possible, or to wait till next spring, by which time they could have goods better, and more for the same money from England, which was submitted to their determination.

As it grew late, Sir William dismissed the Indians till the next day, when they were to subscribe to the deed of cession, and receive the consideration.

At night the Chiefs came to Sir William, and told him, that they had considered the proposal made by the commissioners of Pennsylvania, and they preferred the receiving the purchase in cash, as the speediest payment; which was agreed to, and security given, that the same should be paid in six weeks.

AT a Congress with the several Nations, Saturday, November 5, 1768.

P R E S E N T, as before.

THE deed to his Majesty, that to the proprietors of Pennsylvania, with that to the traders, being then laid on the table, were executed in the presence of the Governor, commissioners, and the rest of the gentlemen.

After which, the Chiefs of each nation received the cash, which was piled on a table for that purpose, and then proceeded to divide the goods amongst their people, which occupied the remainder of that day.

P. M. The Governour and commissioners took leave, and returned to their respective provinces; and that night Sir William took

took leave of the chiefs, recommending it to them to remember what had been then transacted, and cautioning them against committing any disorders at their departure, but to pack up their goods and return home in peace and good order.

To all to whom these presents shall come, or may concern.

WE the Sachems and Chiefs of the Six Confederate Nations, and of the Shawanese, Delawares, Mingoes of Ohio, and other dependant tribes, on behalf of ourselves and of the rest of our several nations, the chiefs and warriors of whom are now here convened by Sir William Johnson, Baronet, his Majesty's Superintendent of our affairs, send greeting :

WH E R E A S his Majesty was graciously pleased to propose to us in the year one thousand seven hundred and sixty-five, that a boundary line should be fixed between the English and us, to ascertain and establish our limits, and prevent those intrusions and encroachments, of which we had so long and loudly complained; and to put a stop to the many fraudulent advantages which had been so often taken of us: which boundary appearing to us a wise and good measure, we did then agree to a part of a line, and promised to settle the whole finally, whenever Sir William Johnson should be fully empowered to treat with us for that purpose.

And whereas his said Majesty has at length given Sir William Johnson orders to complete the said boundary line between the provinces and the Indians: in conformity to which orders, Sir William Johnson has convened the chiefs and warriors of our respective nations, who are the true and absolute proprietors of the lands in question, and who are here now to a very considerable number.

And whereas many uneasinesses doubts have arisen amongst us, which have given rise to an apprehension that the line may not be strictly observed on the part of the English, in which case matters may be worse than before; which apprehension, together with the dependant state of some of our tribes, and other circumstances, retarded the settlement, and became the subject of some debate; Sir William Johnson has at length so far satisfied us upon it, as to induce us to come to an agreement concerning the line, which is now brought to a conclusion, the whole being fully explained to us in a large assembly for our people, before Sir William Johnson, and in presence of his Excellency the Governor of New-Jersey, the commissioners from the provinces of Virginia and Pennsylvania, and sundry other gentlemen, by which line so agreed upon, a considerable tract of country along several provinces, is by us ceded to his said Majesty, which we are induced to, and do hereby ratify and confirm to his said Majesty, from the expectation and confidence we place in his royal goodness, that he will graciously comply with our humble requests, as the same are expressed in the speech of the several nations* addressed to his Majesty, through Sir William Johnson, on Tuesday the first day of the present month of November; wherein we have declared our expectations of the continuance of his Majesty's favour, and our desire that our ancient engagements be observed, and our affairs attended to by the officer who has the management thereof, enabling him to discharge all the matters properly for our interest: That the lands occupied by the Mohawks around their villages,

* See page 15.

as well as by any other nation affected by this our cession, may effectually remain to them and to their posterity; and that any engagements regarding property, which they may now be under, may be prosecuted, and our present grants § deemed valid on our parts, with the several other humble requests contained in our said speech.

AND WHEREAS at the settling of the said line, it appeared that the line described by his Majesty's order, was not extended to the northward of Owego, or to the southward of Great Kanhawa river; we have agreed to, and continued the line to the northward, on a supposition that it was omitted, by reason of our not having come to any determination concerning its course, at a Congress held in 1765 †. And inasmuch as the line to the northward, became the most necessary of any, for preventing encroachments, on our very towns and residences; and we have given this line more favourably to Pennsylvania, for the reasons and considerations mentioned in the treaty. We have likewise continued it south to the Cherokee river, because the same is, and we do declare it to be our true bounds with the southern Indians, and that we have an undoubted right to the country as far south as that river, which makes our cession to his Majesty much more advantageous than that proposed. Now therefore, know ye, that we the Cheims and Chis, aforementioned, native Indians and proprietors of the lands hereafter described, for and in behalf of ourselves and the whole of our confederacy, for the considerations herein before mentioned, and also for and in consideration of the valuable present of the several articles in use amongst Indians, which, together with a large sum of money, amounts in the whole, to the sum of ten thousand four hundred and sixty pounds seven shillings and three pence sterling, to us now delivered, and paid by Sir William Johnson, Baronet, his Majesty's sole agent and superintendent of Indian affairs for the northern department of America, in the name and behalf of our Sovereign Lord George the third, by the grace of God, of Great-Britain, France and Ireland King, &c. tender of the faith; the receipt whereof we do hereby acknowledge: we the said Indians, have for us our heirs and successors, granted, bargained, sold, released, and confirmed, and by these presents do grant, bargain, sell, release, and confirm, unto our said Sovereign Lord King George the Third, all that tract of land situate in North-America at the back of the British settlements, bounded by a line which we have now agreed upon, and do hereby establish as the boundary between us and the British Colonies in America; beginning at the mouth of the Cherokee or Hoghege river, where it empties into the river Ohio, and running from thence upwards along the south side of the said river to Cattanung, which is above Fort Pitt: from thence by a direct line to the nearest fork of the west branch of Sasquehanna, thence through the Allegany mountains along the south side of the said west branch, till it comes opposite to the mouth of the creek called Tiadaghton; thence across the west branch and along the

§ The grants they then made, and which are here alluded to, were as follows: one to Mr. Trent; one to George Croghan, Esq; and one to Messrs. Penns, proprietors of the province of Pennsylvania.

† See page 2.

the south side of that creek, and along the north side of Burnet's hills, to a creek called Awandae; thence down the same to the east branch of Susquehanna, and across the same, and up the east side of that river to Owego; from thence east to Delaware river, and up that river to opposite where Tianaderha falls into Susquehanna; thence to Tianaderha, and up the west side thereof and the west side of its west branch, to the head thereof; and thence by a direct line to Canad. creek, where it empties into Wood creek at the western end of the carrying place beyond Fort Stanwix, and extending eastward from every part of the said line as far as the lands formerly purchased, so as to comprehend the whole of the lands between the said line and the purchased lands or settlements, except what is within the province of Pennsylvania, together with all the hereditaments and appurtenances to the same belonging or appertaining, in the fullest and most ample manner; and all the estate, right, title, interest, property, possession, benefit, claim, and demand, either in law or equity, of each and every of us, of, in, or to the same, or any part thereof, to have and to hold the whole lands and premises hereby granted, bargained, sold, released, and confirmed as aforesaid, with the hereditaments and appurtenances thereunto belonging, under the reservations made in the treaty unto our said Sovereign Lord King George the third, his heirs and successors, to and for his and their own proper use and behoof for ever. In witness whereof, we the chiefs of the confederacy, have hereunto set our marks and seals, at Fort Stanwix, the 5th day of November, 1768, in the ninth year of his Majesty's reign.

Sealed and delivered in }
the presence of us }

" A T a Congress held at the German Flats, in the province of New York, with the Six Nations of Indians, in July 1770, by Sir William Johnson, Baronet, his Majesty's sole agent and superintendent of Indian affairs, etc. etc.

" He spoke to them as follows:

" Brothers,

" The King my master having received all the papers and proceedings relative to the great treaty at Fort Stanwix, together with the deed of cession which you then executed to him, has laid them before his council of great men, and after considering the whole of it, has signified to me, (which I hope will be deemed a farther instance of his paternal goodness,) that he did not require the land so far to the southward (as the Cherokee river) if it was of the least inconvenience to his children, whose interest he has so much at heart. He has, at length, in compliance with your own desires, as transmitted by me, and the public grant that you made, impowered me to ratify the same, by letters I have received from the Lord (the Earl of Hillsborough) who is one of his Majesty's Secretary's, (holding his Lordship's letter in his hand,) which I now purpose to do. You all know the deed of cession, of which this (showing a copy) is a true copy. You all know it was executed in a public meeting of the greatest number of Indians that has ever (been) assembled within the time of our remembrance, and that all who had any pretensions were duly summoned to it, etc."

"To

To which the Six Nations answered ;

" Brother Goragh Warraighiyagey,

" We are now met together in full council, to answer you, concerning what you last spoke to us, about the King's having received our deed, and the proceedings at Fort Stanwix, with his ratification of the same, with which we are highly pleased." Counsellor DAGGE's opinion on the Indian grant of lands to William Trent and others, viz.

THE writers on jurisprudence agree in the proposition "that the original right to all kinds of property arose from pre-occupancy, and that in a state of nature every one might possess himself of, and retain any vacant subject."

The first occupant had a right to grant, cede, or transfer the subject he had possessed himself of, to such persons, and upon such terms, as he thought proper; and if before such grant, cession or transfer the occupant died, his property descended to his children. The right of transmitting property always resided in the owner, and civil institutions only prescribed the mode of carrying that right into effect.

In that period of society when countries were formed, and their boundaries fixed, we find that different districts were appropriated to the native owners, the first occupants, or in case of vacant or derelict lands to the first discoverers. From those original proprietors each country was transmitted to other proprietors, by the consent or by the conquest of the present owners.

In the case under consideration, I am of opinion that the Indians of the Six Nations appear to have been entitled to the lands in question from pre-occupancy, or from conquest; but however their right accrued, they are acknowledged in express words by the deed of cession to the Crown, made at Fort Stanwix, November 5th, 1768, to have been at that time the true and absolute proprietors of the lands in question; and so they were also acknowledged to be in the public negotiations between England and France, in the year 1755, and so also, as is stated in the case, several treaties of peace and commerce entered into with particular nations or tribes of Indians by the English nation, consider and treat the natives or occupiers as the lawful possessors and owners of the countries they respectively occupy.

The deed of cession to the Crown, on the 5th of November, 1768, was made in consideration of 10,460 l. 7s. 3d. sterling, then paid to the Six United Nations, and for other considerations mentioned and expressed in that deed and the treaties previous and preparatory to it.

This deed of cession, the conveyance to Mr. Trent, and the treaties in 1765 and 1768, must be considered together, as they all tend to illustrate the whole transaction, and explain the intention of the contracting parties: And taking the whole under consideration it appears, that the Six United Nations were truly sensible of the great loss the traders had sustained by the treachery and depredations of some of their tributary or dependant tribes; that a requisition was made to the Six United Nations in May 1765 for a grant of land by way of compensating in some measure for the damages the traders had sustained by the depredations of their dependants or tributary Indians; that the Six Nations, after deliberating from the 2d of May, when this requisition was made, to the 6th of May, they agreed that the request of the traders should be complied with, and they would grant them

them some lands near Fort Pitt. That at the Congress and treaty in November 1763, held at Fort Stanwix, the chiefs and sachems of the Six United Nations again took this matter under their consideration, and upon the first day of that month expressly declared, that "in order to shew that they loved justice, they expected, that the traders who suffered by some of their dependants in the war five years since, might have a grant for the lands they then gave them down Ohio, as a satisfaction for their losses."

On the 3d day of the same month of November, the Six Nations, by their sachems and chiefs executed the conveyance to Mr. Trent, which proceeds upon a recital, that he had been empowered by several letters of attorney from the suffering traders named in the said deed, to ask, solicit, demand, and receive from the Six Nations a grant of a tract of land as a satisfaction, compensation, in retribution for the goods, merchandise, and effects of the said William Trent, and of the said several traders which the said Shawnee, Delaware and Huron tribes, tributaries of the said Six Nations (contrary to all good faith, and in violation of their repeated promises of safety and protection to the traders, their servants and effects, while trading in their country) did violently seize upon, and unjustly appropriate to their own use. The deed then declares that in consideration of the sum of 85,916l. 1s. 8d. lawful money of the province of New-York, the same being the amount of the goods and merchandise which were unjustly seized and taken from the traders as aforesaid, whereof just and fair accounts on oath and affirmation had been produced, interpreted and explained to them, and which at their desire were then lodged and deposited with the said Sir William Johnson. The chiefs and sachems of the said Six United Nations, for the said considerations, and in consideration of 5s. did give, grant, bargain and sell unto his Majesty, his heirs and successors, to and for the only use, benefit, and behoof of the said William Trent, in his own right, and as attorney aforesaid, all that tract of land described in the conveyance. To hold unto his Majesty, his heirs and successors, but to and for the only use, benefit, and behoof of the said William Trent, in his own right, and as attorney aforesaid, his heirs and assigns for ever. This deed of conveyance seems to have been executed in the most public manner, in the presence of the King's Governour of New-Jersey, and the commissioners from Virginia and Pennsylvania. And several other persons who attended the Congress, and attested the execution of this conveyance, which by that means received every degree of solemnity and sanction.

On the 5th day of the same month of November, 1763, the said chiefs and sachems executed their deed of cession to his Majesty, of a large tract of country upon the river Ohio. In this deed of cession the Indians expressly stipulate that their present grants (which words are explained in the minutes of Congress of November 5th, where the traders deed is mentioned with the other grants then made) "should be deemed valid on their parts," and they convey to the King, not only in consideration of the present then made, and the money then paid by the King amounting to 10,450l. 10s. 3d. but also for the other considerations in the deed before mentioned, and the Habendum is to the King, his heirs and successors, under the reservation made in the treat-

Wharton, Samuel

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ty to that the deed of cession to the King virtually confirms the conveyance to Mr. Trent. Upon the whole, I am of opinion that Mr. Trent in his own right, and as attorney for the traders, hath a good, lawful and sufficient title to the land granted by the said deed and conveyance, subject only to the King's sovereignty over the settlements to be established thereon, and over the inhabitants as English subjects.

Lincoln's Inn, March 20, 1775.

(Signed)

HENRY DAGGE.

Serjeant GLYNN's opinion.

I FULLY and ENTIRELY concur with Mr. Dagge in his opinion on this case. The property of the soil conveyed to Mr. Trent, for himself and as attorney was certainly in the Six Nations, and incident to that property, they had a power of alienating and transferring in any manner, or to any persons, unless they had been restrained by their own laws.

In this case the supreme power of the country resided in the sellers, who had therefore an absolute power of alienating, and the transaction being fair and open, and for the express purpose of doing an act of public justice, must bind the Six Nations in good faith. If we suppose, that the sovereignty of the land still remains in the Six Nations, the property of the soil must be in the grantee Mr. Trent, and cannot without violence and injustice be taken from him. The very act however of the sovereign power of the Six Nations admits a capacity in the grantee, to take under the deed according to their laws or usage, and there is no law that I ever heard of, that restrains the subjects of the crown of England from purchasing in foreign dominions. The intention of the parties here appears to have been to transfer the sovereignty to the crown of England by the same instrument whereby the land was conveyed. This transfer of the sovereignty is effectual, it passed, and is confirmed by the deed of cession to the crown, dated two days after; but subject however to all the antecedent rights of property, the crown being entitled only to the immediate property of vacant and unappropriated lands; but in this case the lands are abandoned by the proprietors and conveyed to the grantee. If the crown had an original sovereignty, still the soil being the property of the Six Nations, they and their alliance should be protected by that sovereignty in their property. If the crown acquired the sovereignty by the grant to Mr. Trent, or by the deed of cession, the title of the grantee is then under the protection of the laws of England.

Upon the whole, I am of opinion, that in every way of considering this case, the grant to Mr. Trent is good, sufficient and lawful; and is under the protection of the laws of England.

Serjeant's Inn April 13, 1775.

(Signed)

JOHN GLYNN.

HAVING long since carefully studied these points, I concur fully with Councillor Dagge and Serjeant Glynn in their opinions as above delivered.

Philadelphia, July 12, 1775.

(Signed)

B. FRANKLIN.

FROM principles which appear to me very clear, I concur in the above opinions.

Philadelphia, July 29, 1775.

(Signed)

P. HENRY, Junr.

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